

REMARKS

I. Status of the Claims

Claims 1-167 are pending in this application. No claim is amended.

II. Restriction Requirement

In the Office Action dated March 24, 2005, the Examiner has required restriction under 35 U.S.C. § 121 to one of the following linked groups of claims:

Group I Claims 16-18, 29¹, 64-66, 77, 102-104, 115, 136-138 and 149 are drawn to a composition for durable non-permanent shaping or durable retention of non-permanent shape of at least one keratinous fiber comprising C5-C7 saccharide unit substituted with at least one amino group, method of use and kit wherein the saccharide unit is C5 substituted with at least one amino group chosen from pentosamines.

Group II Claims 19-21, 30, 31, 67-69, 78, 79, 105-107, 116, 117, 139-141, 150, and 151 are drawn to a composition for durable non-permanent shaping or durable retention of non-permanent shape of at least one keratinous fiber comprising C5-C7 saccharide unit substituted with at least one amino group, method of use and kit wherein the saccharide unit is C6 substituted with at least one amino group chosen from hexosoamines.

Group III Claims 22, 23, 70, 71, 108, 109, 142, and 143 are drawn to a composition for durable non-permanent shaping or durable retention of non-permanent shape of at least one keratinous fiber comprising C5-C7 saccharide unit substituted with

¹ The Restriction Requirement states that claim 28 is part of Group I. Applicants' representatives contacted the Examiner to confirm that claim 29 (not claim 28) should be in Group I. Claim 28 is correctly placed in Group VI.

at least one amino group, method use and kit wherein the saccharide unit is C7 substituted with at least one amino group chosen from heptasoamines.

Group IV Claims 24, 72, 110, and 144 are drawn to a composition for durable non-permanent shaping or durable retention of non-permanent shape of at least one keratinous fiber, method of use and kit wherein at least one compound is chosen from oligosaccharides derived from said at least one C5-C7 saccharide unit substituted with at least one amino group.

Group V Claims 25, 73, 111, and 145 are drawn to a composition for durable non-permanent shaping or durable retention of non-permanent shape of at least one keratinous fiber comprising C5-C7 saccharide unit substituted with at least one amino group, method of use and kit wherein said at least one C5-C7 saccharide unit is chosen from furanoses and derivatives thereof.

Group VI Claims 26-28, 74-76, 112-114, and 146-148 are drawn to a composition for durable non-permanent shaping or durable retention of non-permanent shape of at least one keratinous fiber comprising C5-C7 saccharide unit substituted with at least one amino group, method of use and kit wherein said at least one C5-C7 saccharide unit is chosen from derivatives of C5-C7 saccharide units.

The Examiner considers claims 1-15, 32-63, 80-101, 118-135, and 152-167 as linking Groups I and II-VI. Office Action dated March 24, 2005, pp. 4-5.

To be responsive to the restriction requirement, Applicants elect, with traverse, **Group II**, i.e., claims 19-21, 30, 31, 67-69, 78, 79, 105-107, 116, 117, 139-141, 150, and 151, and linking claims 1-15, 32-63, 80-101, 118-135 and 152-167.

Applicants traverse the election among the six groups, at least because the Examiner has not applied the criteria and guidelines set forth in M.P.E.P. § 803 for making proper requirements for restriction under 35 U.S.C. § 121. The M.P.E.P. instructs Examiners as follows:

If the search and examination of an entire application can be made without serious burden, the Office must examine it on the merits, even though it includes claims to distinct or independent inventions.

M.P.E.P. § 803 (emphasis added).

Here, with regard to all six groups, the Examiner has not shown that examining the groups together would constitute a serious burden. Also, the Examiner classified five of the six groups (i.e., Groups II-VI) in the same class and subclass, i.e., class 424, subclass 70.1. See Office Action dated March 24, 2005, pp. 2-3. Applicants therefore submit that searches for each of these groups of claims should substantially overlap and thus do not represent a serious burden to the Examiner, especially with regard to Groups II-VI.


If the Examiner chooses to maintain the restriction requirement, and if the elected group is found allowable, Applicants respectfully request that the Examiner expressly withdraw the restriction requirement and fully examine the remaining groups (i.e., Groups I, and III-VI) since they are linked by the linking claims. Office Action dated March 24, 2005; M.P.E.P. § 809.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: May 24, 2005

By: 
Mark D. Sweet
Reg. No. 41,469